

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANDREW LOVATO,

Plaintiff,

vs.

Case No.: 1:20-cv-1217

THE BOARD OF TRUSTEES OF LUNA
COMMUNITY COLLEGE,
LUNA COMMUNITY COLLEGE,
RICKY SERNA, in his individual capacity,
MATT CORDOVA, in his individual capacity, and
MIKE JARAMILLO, in his individual capacity,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1343, 1367, 1441 and 1446, defendants Ricky Serna, Matt Cordova, Mike Jaramillo, Board of Trustees of Luna Community College, and Luna Community College (collectively, the “Defendants”) give Notice of Removal to this Court of the civil action filed in the Fourth Judicial District Court for the State of New Mexico, County of San Miguel: *Andrew Lovato v. The Board of Trustees of Luna Community College, Luna Community College, Ricky Serna, in his individual capacity, Matt Cordova, in his individual capacity, Mike Jaramillo, in his individual capacity*; Cause No. D-412-CV-2020-00322, and as grounds therefor, state:

1. On September 18, 2020, Plaintiff filed a civil complaint (the “Complaint”) in the Fourth Judicial District Court for the County of San Miguel in the State of New Mexico in Cause No. D-412-CV-2020-00322 against the Defendants (the “State Court Action”). A copy of the Complaint is attached as **Exhibit A**.

2. On September 23, 2020, summonses were issued to each of the Defendants. Copies of the summonses in the State Court Action are attached as **Exhibit B**.

3. Defendant Ricky Serna received a copy of the summons and complaint by email on October 23, 2020. Defendants Matt Cordova, Mike Jaramillo, Board of Trustees of the Luna Community College, and Luna Community College were served with the Complaint and summonses on November 2, 2020. Copies of returns of service filed in the State Court Action are attached as **Exhibit C**.

4. All Defendants consent to the removal of this action and, therefore, there is unanimity among all defendants in consenting to this removal.

5. Pursuant to 28 U.S.C. § 1446(b)(2)(B) and (C), the Notice of Removal is filed within thirty (30) days after service of the Complaint on the Defendants.

6. Pursuant to 28 U.S.C. § 1446(d), copies of the Notice of Removal will be given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the Fourth Judicial District Court, County of San Miguel, State of New Mexico.

7. 28 U.S.C. § 1441(a) permits removal by a defendant of “any civil action brought in a State court of which the district courts of the United States have original jurisdiction...”. Federal question jurisdiction exists in this matter pursuant to 28 U.S.C. § 1331 because Plaintiff asserts in

Count II of his Complaint that all of the Defendants violated Plaintiff's rights protected by the Fourteenth Amendment to the United States Constitution for which they are liable under 42 U.S.C. § 1983. **Exhibit A**, ¶¶ 19 – 52.

8. Accordingly, this action may be removed to this Court pursuant to 28 U.S.C. § 1441, 28 U.S.C. § 1446, and 28 U.S.C. § 1331.

9. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the state law claims asserted in the Complaint at Count I (Breach of Contract) and Count III (Violation of the New Mexico Whistleblower Protection Act).

10. Pursuant to D.N.M. LR-Civ. 81.1(a), Defendants will file a certified copy of the file in the State Court Action with the Court within twenty-eight days after filing the Notice of Removal.

11. A Civil Cover Sheet is attached hereto as **Exhibit D**.

Submitted by:

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Luna Community College*

Certificate of Service

I HEREBY CERTIFY that on the 20th day of November, 2020, I filed the foregoing electronically through the CM/ECF system, and I caused all counsel of record and parties *pro se* to be served by electronic mail as follows:

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